

TO: Chairman and Members

DATE: November 18, 2010

**SUBJECT: SB 81 Local Youthful Offender Rehabilitative Facilities
Construction Financing Program Regulations Revision**

AGENDA ITEM: G

**ACTION: X
INFORMATION:**

RESOURCE PERSON: Charlene Aboytes

Summary:

This agenda item requests approval of: the draft revisions to the SB 81 Local Youthful Offender Rehabilitative Facilities Financing Program regulations; approval to submit the revised regulations to the Office of Administrative Law (OAL); the appointment of a chairperson for the public hearing; and approval to begin the public comment process.

Background:

The SB 81 Local Youthful Offender Rehabilitative Facilities Financing Program regulations were approved by the CSA Board at their May 2009 meeting. Subsequently, the regulations were submitted to the OAL and were effective in August 2009. As with the regulations for the AB 900 Local Jail Construction Funding Program, the focus of the SB 81 regulations is the Request for Proposals (RFP) process and the administration of construction funds. Because of the similarities in the RFP and funding mechanisms (both the AB 900 and the SB 81 construction programs are funded through lease-revenue bonds), the SB 81 Local Youthful Offender Rehabilitative Facilities Construction Funding Program regulations are very similar to the AB 900 Local Jail Construction Funding Program regulations.¹

This is the first time that the SB 81 regulations have been amended and it reflects the changes that are currently being proposed for the AB 900 regulations. One of the amendments reflected in these regulations pertain to the design-build construction delivery method. Until recently, there was no statutory authority for the design-build process and the 2007 Local Youthful Offender Rehabilitative Facilities Construction Financing Program regulations do not specifically allow the design-build process for SB 81 projects. AB 1628 was necessary to amend Welfare and Institutions Code Section 1975 to provide statutory authority for counties to utilize the design-build process. Signed by Governor Schwarzenegger on October 19, 2010, this bill gives CSA the authority to amend the regulations to enable counties to utilize the design-build process, if they so desire.

There were other changes as well. One regulation was amended to reflect CSA Board action from a previous agenda item from this November meeting; changing the retention amount withheld from the proceeds of the lease-revenue financing from 20% to 5%. Finally, language was added to some

¹ The most significant difference between the two sets of regulations is the language in the AB 900 Local Jail Construction Funding Program regulations pertaining to "assisting the state in siting reentry facilities" and "assisting the state in siting mental health day treatment and crisis care, and/or a continuum of care for parolees."

regulations to clarify the requirements of the lease-revenue process. There are other changes that may be considered non-substantive in nature. For instance, throughout the regulations, the term "financing" replaced the terms "funds," "funded" or "funding." Sometimes grammatical or other types of errors were corrected. The regulations are attached for your review along with a document that contains the reasons for the amendments (Attachments A and B).

In this regular rulemaking process, with Board approval, the draft revised regulations will be submitted to the OAL, and then undergo a 45-day public comment period. After the public comment period a public hearing will be held in Sacramento chaired by a CSA Board member. Staff anticipates presenting the draft regulations to the CSA Board at the March 2011 meeting. If there are no changes that result in an additional 15-day public comment period, staff will submit the revised regulations to the OAL for approval.

Recommendation/Action Needed:

Staff recommends:

1. The Board approve the draft regulations.
2. The Board direct staff to submit the draft regulations to the Office of Administrative Law.
3. The Board appoint CSA Board member as chair for the upcoming public hearing regarding the draft regulations.
4. The Board direct staff to begin the public comment process regarding the regulations.